

From: dave@ipgroup.org@inetgw
To: Microsoft ATR
Date: 1/28/02 3:04pm
Subject: Microsoft Settlement

Sir:

The Intellectual Property Group strongly urges the government to conclude that the proposed settlement with Microsoft is wholly inadequate to encourage Microsoft to comply with applicable legal and ethical practices.

Microsoft has often played the game that simply because an action is not specifically illegal, then it is acceptable to take the action, even if such action is contradictory to common business ethics. In many cases, Microsoft has taken this concept a step further and unilaterally decided that certain laws are extremely limited, as in the case of failing to identify communications with Congressional representatives because, as Microsoft alleges, they are not part of the government (referring specifically to Microsoft's interpretation of the Tunney Act). In fact, Senator Tunney recently declared, with respect to Microsoft's interpretation of the law, "I do have some pride in my legislative record and my history of service in the Senate, and I don't like to have my words and my intention being misinterpreted," reported at <http://www.siliconvalley.com/docs/news/depth/tunney012602.htm>. "The disclosure provisions were designed to help ensure that no defendant can ever achieve ! through political activities what it cannot obtain through the legal process." Id. "Failure to comply with these provisions raises an inference or, at a minimum, an appearance of impropriety." Id.

Microsoft has a long record of disregarding the law and intellectual property rights of others in favor of its determination to sustain its monopoly. Microsoft executives have often criticized competition without factual basis, and have launched smear campaigns against people who take positions contrary to their immediate business interests. Moreover, Microsoft has a long record of campaigning against fair competition by other technologies, including open source technologies. Microsoft has attempted numerous times to quash and tarnish the goals of the open source movement. Such tactics are not only fundamentally unfair and unethical, but also against the interest of consumers, especially in view of Microsoft's dismal software security record.

The Intellectual Property Group urges the government to insist on a settlement or verdict that serves to benefit consumers. Such a settlement would not only require Microsoft to timely share relevant portions of its software code with the business community, but would also require that it agree to offer reasonable royalties to intellectual properties in which it holds a controlling interest. Without this second aspect to the settlement, smaller companies could be subject to intimidation and lawsuits by Microsoft. Such actions would stifle competition and result in fewer choices for consumers.

Sincerely,
Dave Ashby
The Intellectual Property Group
<http://www.ipgroup.org>